

In re: Scott W. Knutson
Serial No.: 10/081,848

REMARKS

This amendment follows the outstanding Official Action dated 03/04/05 and marked as Non-Final and is intended as a complete and proper response thereto. In particular, the present paper is presented with the view of advancing prosecution of this application on its merits and hopefully placing this case in a clear condition for allowance.

In order to render this Amendment responsive, a Petition for Extension of Time to Respond Within the Third Month Pursuant to § 1.136(a) is submitted herewith in duplicate along with the requisite petition fee of \$510.00 commensurate with the applicant's small entity status as previously established.

Claims 1-2, 5-8, 11-14 and 17-20 remain in the application. These remaining claims have been amended in accordance with the examiners detailed action. Reexamination and reconsideration of the application, as amended, is requested.

Claims 1-2, 7-8, 13-14, and 19-20 have all been rejected under 35 U.S.C. § 103(a) as being unpatentable over Haglund 3,866,169 in view of Lentine et al. 6,603,402 and in further view of Fallenstein Publication 2003/0146850. For prior art references to be combined to render obvious a subsequent invention under § 103, there must be something in the prior art as a whole which suggests the desirability, and thus the obviousness, of making the combination. *Uniroyal v. Rudkin-Wiley*, 5 U.S.P.Q. 2d 1434, 1438 (Fed. Cir. 1988). The teaching of the references can be

combined only if there is some suggestion or incentive in the prior art to do so. *In re Fine*, 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). Hindsight is forbidden. It is impermissible to use the claims as a framework from which to pick and choose individual references to recreate the claimed invention. *Id.* at 1600; *W.L. Gore*, 220 U.S.P.Q. at 312. Moreover, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992); *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

The Haglund 169 patent generally discloses a vehicle signaling apparatus having a receiving unit and a transmitter unit with a cable connecting the two, the transmitter unit having push button signal switches for illuminating corresponding signal indicator lamps mounted on the display. As can be seen from this application, the two devices contain a cable connecting the devices and are used for backing up a semi or the like into tight situations wherein someone driving the vehicle watches the receiver and another person directing the vehicle from the outside uses the corded transmitter to assist in backing up the vehicle. This patent has also been discussed in more detail in prior responses.

The Lentine et al. 402 patent generally discloses a water skier alert system and tow bar handle assembly. This device uses a tow bar for a water skier having a radio transmitter and signaling button on the tow bar handle which communicate with a receiver

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placed in the boat such that the water skier can direct the boat driver. Again, this patent has also been discussed in more detail in prior responses.

The Fallenstein Patent Application Publication 2003/0146850 generally discloses a wireless exchange between vehicle borne communications. It appears that this system is a computer automated system for transmitting information from one vehicle to another. For example, if a vehicle encounters a slippery spot in the road causing anti-roll mechanisms or ABS mechanisms to be operated this information may be transmitted to a vehicle behind and automatically picked up by the vehicle to warn the vehicle that adjustments to its parameters may be required. In the current situation, the examiner is arguing that Fallenstein teaches a wireless communication system between vehicles having an effective range of less than 1000 feet. Paragraph 17 does indicate that a short range wireless communication system is desirable within a few hundred feet. However, this system is completely different as this unrelated system requires extensive computer monitoring and transmission equipment within vehicles for transmitting a vehicles diagnostic system information to another nearby vehicle that may be getting ready to encounter the same road conditions. Once again, it is believed that this is completely non-analogous art as this is used in moving vehicles generally traveling on roadways whereas the current system is typically used between a truck and vehicle unloading into the truck and is transferring completely different information, for example, information indicating the user to tell the truck to pull ahead, pull back, go left or right, and is not transmitting data encountered by the vehicle automatically but rather

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transmitting information supplied by the user.

The independent claims in the application and in particular, claims 1, 7 13 and 19 have now all been amended to also include dimensions of the transmitter and receiver boxes and in particular, an upper and lower surface with indicators and buttons on the upper surface and a cavity access door on the lower surface to access the interior of a transmitter or receiver. Further, these claims have been amended to also include the limitations regarding the dip switches. These were prior placed within dependent claims that were found to be unpatentable over the prior art as discussed above in further view of Toll, Jr. 4,797,671. As previously discussed, the Toll, Jr. patent is for a motor vehicle locating system which uses dip switches for encoding and decoding of the signal. Once again, it is believed that this combination is an impermissible combination using hindsight. It is impermissible to use the claims as a framework from which to pick and choose individual references to recreate the claimed invention as discussed above. It is believed that the combination of a water skier alert system, a motor vehicle locator system, direction controls for unloading a vehicle system and a wireless exchange between vehicle borne communications system is clearly a combination that is made using hindsight and the claims as a framework to pick and choose from references. Finally, there is no teaching in any of these art forms or suggestion that it would be desirable to combine a water ski system, a corded system for vehicles hooked to trailers and a wireless exchange system between vehicle borne communications with a motor vehicle locator.

Further, as discussed above, the claims now contain the

limitations of the actual structure of the transmitter and receivers and in particular, an upper and lower surface with an access door on the lower surface. It is believed that this feature is also not shown in the prior art of record.

Finally, regarding claim 13, the examiner has previously argued that although the prior art does not show the invention as claimed in 13 and specifically the particular arrangement of an audible indicator along with a receiver for the audible indicator, it would be obvious to a person having ordinary skill in the art at the time to make a separate button for actuation of a separate audible indicator. However, this is clearly not the case as this button could serve other purposes too and it may be desirable to use this button in combination with any of the other buttons or by itself. Thus, transmitting a completely different signal to the receiver. It appears that the examiner is using official notice along with a large variety of unrelated non-analogous prior art in order to deny this claim. Further, if this denial is continued, the examiner will also have to use other pieces of prior art, in particular, Toll, Jr., and other art to show the structure of the device. Thus, it is anticipated that the examiner may be attempting to use as many as five pieces of prior art along with official notice to deny the claims of record. The use of this many pieces of prior art along with official notice by the examiner is clearly an indicator of improper picking and choosing from the prior art to recreate the claimed invention and thus, is hindsight which is strictly forbidden.

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It is believed that with this current amendment and the discussion of the prior rejections as well as the prior art of record and how it applies to the current amendment, and based upon the amendment of the claims contained herein and the discussion of how these particular claims are patentable over the prior art of record and discussion of the current rejections, the patentable nature of the claims has been demonstrated.

In view of the above remarks, reconsideration and allowance of the claims is kindly requested. Should any matters remain outstanding that may be handle over the phone the examiner is encouraged to call.

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Respectfully Submitted,



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